UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 0 8 2017

REPLY TO THE ATTENTION OF:

WN-15J

Nicole Blasing, Supervisor
North Central Regional Unit
Municipal Wastewater Section
Minnesota Pollution Control Agency
7678 College Road
Suite 105
Baxter, MN 56425

Re: U.S. Environmental Protection Agency Review of the revised Pre-public Notice NPDES Permit for the City of Delano Wastewater Treatment Facility, Delano, Minnesota, Permit No. MN0051250

Dear Ms. Blasing:

The U.S. Environmental Protection Agency (EPA) has reviewed the revised Pre-public Notice draft National Pollutant Discharge Elimination System (NPDES) Permit and Fact Sheet for the City of Delano Wastewater Treatment Facility provided by the Minnesota Pollution Control Agency (MPCA) on May 15, 2017, and a "Nonpoint Source Factsheet for the South Fork Crow River Watershed" provided by the MPCA on May 30, 2017. The MPCA has submitted these documents to respond, in part, to EPA's January 4, 2017 comments. Based upon our review of these materials, and as explained further below, EPA would not object to issuance of this permit.

Eutrophication caused by phosphorus pollution in Minnesota, and nationwide, has significant economic and social impacts that can adversely impact property values, recreational opportunities, tourism, scenic beauty, quality of life, and human health. In many instances, nonpoint sources are the primary source of phosphorus pollution. Where this is the case, significant reductions in nonpoint source loadings would be necessary to meet Minnesota's eutrophication water quality standards. However, the Clean Water Act does not provide direct regulatory authority over nonpoint sources of pollution.

In recognition of these facts, the State of Minnesota is taking an innovative approach, that relies heavily on Minnesota's implementation of ambitious nonpoint source load reduction programs. These include, but are not limited to, adoption of the Clean Water, Land and Legacy Amendment to the Minnesota Constitution in 2008, establishing a statewide sales tax to raise tens of millions of dollars each year through 2034 that will be used in part to implement nonpoint source control measures; Minnesota's adoption of a statute requiring landowners to establish and maintain 50-foot vegetated buffer strips adjacent to public waters and public drainage ditches throughout Minnesota; and development and implementation of Watershed Restoration and Protection Strategy (WRAPS) for each of Minnesota's 80 major watersheds, a strategy that involves local

units of government in a watershed taking the lead on coordinating with stakeholders to implement measures to reduce nonpoint source loadings of phosphorus. These state and locally initiated measures for reducing nonpoint source loadings of phosphorus could restore water bodies that currently are impaired due to eutrophication, a result that, in some instances, could not be achieved through point source control alone.

MPCA has determined that the South Fork of the Crow River Watershed (Watershed) does not attain its river eutrophication standards due to excess phosphorus and algae in the Watershed. According to MPCA's nonpoint source fact sheet for the Watershed, there is a significant effort underway to reduce nonpoint source loadings of phosphorus by utilizing funding from the Legacy Amendment, implementing Minnesota's 50-foot buffer strip law, and development and implementation of a WRAPS for the Watershed, among other approaches. MPCA anticipates that current and future investments within the Watershed will result in significant reductions in phosphorus and other pollutants in the Watershed. Because it will not be possible to attain the river eutrophication water quality standards in the Watershed unless phosphorus loadings from nonpoint sources are significantly reduced; because there is a significant effort underway to reduce nonpoint source phosphorus loadings in the Watershed that MPCA has summarized and expects will substantially reduce nonpoint source loadings of phosphorus into the Watershed; and because the permit conditions require more stringent phosphorus limits than previously applicable to the Delano facility, EPA will exercise its permit review discretion and not object to the Delano permit as revised in the Pre-public Notice Permit EPA received on May 15, 2017.

EPA recognizes that it will take time before nonpoint source loading measures will be fully implemented and effective. As such, it is key that watershed monitoring tracks phosphorus load reductions and ambient water quality improvements that occur during this permit term. To the extent that this monitoring information shows that the nonpoint source reduction measures that are expected to occur during the five-year term are in fact implemented and show promising results, and there is reason to believe that continued implementation of similar activities during the subsequent permit term will result in meaningful reductions in nonpoint source loadings of phosphorus, a similar permitting approach may be warranted for the subsequent permit. Conversely, if little progress has been made during the five-year term on measures to reduce nonpoint source loadings of phosphorus and/or there is little reason to believe that progress will be achieved in the subsequent permit term, then more stringent phosphorus water quality based effluent limits for point source dischargers may be necessary.

Based on our focused review pertaining to the phosphorus limits of the Pre-public Notice Permit provided by MPCA on May 15, 2017, EPA would not object to issuance of the permit. Our position could change if any of the following occur:

1) Prior to the actual date of issuance of a Proposed Permit, an effluent guideline or standard is promulgated which is applicable to the permit and which would require revision or modification of a limitation or condition set forth in the Draft Permit;

2) A variance is granted and the Permit is modified to incorporate the results of that variance;

3) There are additional revisions incorporated into the Permit which have not been agreed to by

EPA; or

4) EPA learns of new information, including as the result of public comments, which causes EPA to reconsider its position.

Although we currently do not intend to object to the issuance of this permit, EPA requests that MPCA consider and address the comments included in the enclosure. We believe addressing these points will significantly strengthen the phosphorus-related requirements in the draft permit.

We look forward to working with you as you proceed to public notice a draft of the permit. We will review that permit, and supporting documentation, including documentation of plans for nonpoint source reductions in the Watershed, per the guidelines set forth in the Memorandum of Agreement between MPCA and EPA. When the draft Permit is prepared, please forward a copy to r5npdes@epa.gov. Please include the EPA permit number, the facility name, and the words "Draft Permit" in the message title. If you have any questions related to EPA's review of this permit, please contact Krista McKim at (312) 353-8270 or at mckim.krista@epa.gov.

Sincerely,

D. Scott Ireland, Chief
Section 1, NPDES Programs Branch

Enclosure

cc: Holly Christenson, MPCA, electronically

Enclosure

U.S. Environmental Protection Agency
NPDES Permit No. MN001250
City of Delano Wastewater Treatment Facility

1. ***Limits and Monitoring Table.*** The tables in Section 7 of the permit could be made more clear with respect to what limits apply to the permittee. For example, on page 39, the row of the table that contains "Subject Item" SD 002 001 Total Facility Discharge Phase 2 indicates "Monitor Only…" under "Discharge Limitations, Quantity/Loading avg", and also the 0.53 mg/L calendar month average limit for Total Phosphorus in the "Quality/Conc. Avg" column. We recommend that MPCA edit this table, especially for the example above, as it is difficult to distinguish the monitoring requirements from the discharge limitations. The problem might be resolved by providing a clearer or thicker vertical line separating the limits and monitoring requirements, or the two types of units (loading vs concentration) used in the Table.

2. ***Phosphorus Limit Requirements.*** MPCA has added a condition regarding phosphorus limits, but it does not have a paragraph or section number associated with it like other conditions do. In other words, this condition is in the permit after section 5.4.41 but does not have its own paragraph number. This appears to be a formatting error, and we suggest that this condition be given a paragraph number. Further, there is a typographical error in this paragraph. The third sentence references "The long-term average wasteload allocation of 0.53 mg/L…", MPCA calculated a long-term wasteload allocation of 0.25 mg/L for the permittee, as is explained in the second sentence of this paragraph. We recommend that MPCA revise the third sentence to read, "The long-term average wasteload allocation of ***0.25*** mg/L".